IN THE HIGH COURT OF PUNJAB & HARYANA
CHANDIGARH

Criminal Revision No.175 OF 1994
Date of Decision: ***JULY 12, 2007***

SATISH KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. P.S.Bajwa,Advocate for the petitioner.

Mr. K.S.Godara, AG, Haryana.

A.N.JINDAL, J

The accused/revision petitioner (hereinafter referred to as the petitioner) was sentenced with 3 years rigorous imprisonment and a fine of Rs.500/- for the offence under Section 326/34 IPC for inflicting simple and grievous injuries on the person of Naresh and Wazir Chand vide judgment dated 03.08.1993 passed by Sub Division Judicial Magistrate Hansi. The appeal against the said judgment was also dismissed by Addl. Session Judge, Hisar. Hence this petition.

The factual matrix of the case is that on 13.06.1990 at about 5.30 PM, Naresh Kumar(PW5) was going to the market and when he reached Bajria chowk Hansi, the accused came across him and compelled him to oblige them with liquor. On refusal, Satish Kumar caught hold of Naresh Kumar by his neck and gave him fist blows. Sant Lal non petitioner inflicted a rambhi blow on his right shoulder. Hue and cry raised by him attracted Wazir Chand his father, Sheela his mother and one Gulshan

Kumar. When they were taking him to the Civil Hospital, Hansi both the accused again accosted them and exhorted to teach them a lesson for picking up a quarrel with them. Sant Lal threw some chemical from the bottle on the person of Naresh Kumar and his father. Thereafter both the accused ran away. The case FIR No.229 dated 11.07.1990 was registered against both the accused. Law was set in motion and on completion of investigation both the accused were tried for the offence under Section 326/34 IPC. The trial ended in conviction and appeal was also dismissed.

It would be pertinent to mention here that Sant Lal did not challenge the judgment but only Satish Kumar has preferred this petition.

Heard.

Dr. K.S.Rathore(PW2) observed the following injuries on the person of Naresh Kumar:-

> *"i) Patient was giving history of alleged throwing some corrosive on various parts of body, that is on face, neck, chest and upper limbs both sides forearm, arms and left eye, leg and back of the neck, blisters, slight peeled off skin on arms, forearms, legs blemish yellow discoloration of skin complaining of burning on scalp and head also.*
>
> *ii) A lacerated wound on lower lip left side point . 5x.5 cms. slight clotted blood was present on chin and lip.*
>
> *iii) An irregular wound on right side of back of shoulder size 3 cms x 1 cms x 7.5 cms clotted blood was present on back."*

He also examined Wazir Chand injured and observed the following injuries on his person:-

i) *Patient gave history of alleged throwing of some corrosive on various parts i.e. face, neck, chest upper and lower limbs slight back of neck more of upper limbs brownish discoloration to deep disclosuration of skin. Superficial peeling of skin.*

ii) *History of both eyes exposed with corrosive. Advised regularly."*

The trial Court convicted the accused under Section 326/34 IPC for causing grievous injury on the person of Naresh. While holding that the injury no.1 falls within the purview of Clause 'sixthly' of Section 320 of the Indian Penal Code. Here it would be essential to mention that Clause 'sixthly' deals with the injuries relating to permanent disfiguration of the head or face. But here in this case no categorical opinion has been brought to my notice vide which injury on the face of Naresh created permanent disfiguration of his face or head. The injury reflects the superficial peeling off of the skin on the arms legs and also discoloration of the skin but the same cannot be termed as permanent disfiguration, consequently the said injury does not fall within the purview of Clause 'sixthly' of the Indian Penal Code.

In any case, the injuries caused by the chemical, as per allegations, have been attributed to Sant Lal non petitioner. The sprinkling of chemical was allegedly made at the second time when the accused met the injured on his way to hospital. At that time Satish Kumar was not armed and did not cause any injury to the Naresh Kumar. As such Sant Lal cannot be said to have shared any common intention with Satish Kumar while throwing corrosive upon Satish Kumar. The fact remains that Satish Kumar committed only simple injuries. As such he could not be convicted under Section 326 IPC.

For the foregoing reasons, I hereby partly accept the

appeal, set aside the impugned judgment and hold Satish Kumar guilty of the offence under Section 324/34 IPC instead of 326/34 IPC. Resultantly the sentence awarded against him is modified and he is ordered to undergo RI for six months, however, the sentence of fine awarded against him will remain intact. Chief Judicial Magistrate, Hissar is directed to proceed against the petitioner accordingly for serving remaining part of his sentence.

(A.N.JINDAL)
JUDGE

July 12,2007
Ruchika